THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.11437 of 2006

Date: 03.07.2006

Between:

Sri Srinivasa Residency Flat Owners
Association (Regd.No.1318/2002)
Rep., by its Secretary A.V.B. Balakrishna.

... PETITIONER

AND

Ajantha Decors (P) Ltd.,
Rep., by its Managing Director
A. Krishna Kumari & another.

... RESPONDENTS

ORDER:-

Herd the learned counsel on record.

2. The writ petition is filed for a writ of Mandamus declaring the inaction of the 2nd respondent in not taking any steps for demolition of the pent house constructed on the 5th floor as well as the independent house constructed in the tot-lot area in the premises No.50-90-3/2, Sri Srinivasa Residency, Santhipuram, Visakhapatnam, without any approval from the Municipal Corporation of Visakhapatnam as illegal and unsustainable and to pass such suitable orders.

3. Sri Ranga Reddy, the learned Standing Counsel representing the 2nd respondent would submit that inasmuch as already a suit being O.S.No.1050 of 2003 on the file of IV Additional Junior Civil Judge, Visakhapatnam, is pending, no further orders need be passed in the present writ petition.

4. It is stated in the affidavit filed in support of the writ petition that the petitioner is the Secretary of the petitioner association. It is further staed that the 2nd respondent – Municipal Corporation found that there are several violations of the rules and the 1st respondent had deviated from the approved plan by projecting the roof slabs of all floors into the set backs with a view to construct balconies around the building in violation of the approved plan and constructed the pent house on the top of the 5th floor unauthorisedly. It is also stated that the 2nd

respondent Corporation after inspection found that the 1st respondent constructed an independent house in the tot-lot area without any permission and approved plan. It is further stated that the 2nd respondent had issued a notice under Section 452 of the Hyderabad Municipal Corporation Act. But, the 1st respondent filed a suit being O.S.No.1050 of 2003 and obtained interim injunction in I.A.No.308 of 2003 on 15.04.2003. It is also stated that the 2nd respondent filed an application for vacating the interim injunction on12.08.2003, but so far no substantial progress had been achieved in getting the interim injunction vacated.

5. Several factual details had also been narrated. Inasmuch as the 1st respondent already filed a suit and obtained an interim order and the petitioner also moved appropriate applications, it would be just and proper to dispose of the writ petition with the following direction.

6. The learned IV Additional Junior Civil Judge, Visakhapatnam, is directed to dispose of either the main suit being O.S.No.1050 of 2003 or at least the interlocutory applications at an early date, preferably, within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

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P.S. NARAYANA, J

Date: 03.07.2006

Note:- Issue CC in three days.

(B/o.)

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